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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/644,923 | 08/23/2000 | Darryl Scott Burkett | RIV6172P | 1854 |

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EXAMINER

BRAHAN, THOMAS J

ART UNIT PAPER NUMBER

3652

DATE MAILED: 04/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/644,923

Applicant(s)
BURKETT

Examiner
Thomas J. Brahan

Art Unit
3652



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 23, 2000
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 20) ☐ Other: _____

1. Formal drawings are required with the response to this action.
2. The following is a quotation of the second paragraph of 35 U.S.C. § 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
3. Claims 11-16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to how the applicant is considering the operator's seat (46) as mounted in front of the control panel (50) as the seat and the control panel appear to be side-by-side in both embodiments.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:
A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.
6. Claims 1, 4, 6, 7 and 11 are rejected under 35 U.S.C. § 102(b) as being anticipated by Newton.
7. Claims 1, 4, and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Reinert.

8. Claims 1, 6-8, 11, and 13, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by SE 308,381.

9. Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over SE '381, Newton, or Reinert. The width of the tires chosen for the trailers of SE '381, Newton or Reinert would have been an obvious design concern, depending on the intended terrain.

10. Claims 1-5 and 9 are rejected under 35 U.S.C. § 103(b) as being unpatentable over Tuenkers in view of Reinert. Tuenkers shows a vibratory sheet piling driver. It varies from the claims by not specifying that it is supported on trailer. Reinert shows a similar pile driver and teaches mounting pile drivers on tractor trailers, flatbed trucks and rail vehicles, see column 15, lines 38-41. Therefore it would have been obvious to one of ordinary skill in the art to mount the pile drive of Tuenkers on a flatbed trailer, for mobility, as taught by Reinert. The width of the tires chosen for the trailer, as recited in claim 3, would have been an obvious design consideration, depending on the intended terrain. The trailer of Reinert has rear outriggers, as recited in claim 9.


11. Claims 1-3 and 5-13, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over van Halteren in view of SE '381. Van Halteren shows a vibratory sheet driver which is suspended by a crane. It varies from the claims by not showing the specifics of the crane. SE '381 shows hydraulic cranes mounted on trailers. It would have been obvious to one of ordinary skill in the art to have the vibratory sheet driver of van Halteren suspended and used from a trailer mounted crane, as to have the trailer as the transport means for the load of sheets, as suggested and rendered obvious by SE '381. The width of the tires chosen for the, as recited in claim 3, would have been an obvious design concern, within the level of routine skill in the art.

12. Claims 4 and 14-16, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over van Halteren in view of SE '381, as applied above to claims 1 and 13, and further in view of Newton. Van Halteren and SE '381 show the basic claimed vibratory sheet driver and trailer, as detailed above. They vary from the claims by not specifying that hydraulic power unit for the crane is carried by

the trailer. Newton shows a similar hydraulic crane on a trailer and teaches that the hydraulic pump power unit can be mounted on the truck or on the trailer, see column 5, lines 28-35. It would have been obvious to one of ordinary skill in the art to have the power unit of the crane mounted on the trailer, as this is conventional in the art, as taught by Newton. SE '381 has its crane mounted to the rear of the platform or to the side of the platform, as to have the sheet driver and its retaining clamps mounted to the rear of the platform as recited in claim 15, or to the side of the platform as recited in claim 16.

13. Claim 10 is rejected under 35 U.S.C. § 103(b) as being unpatentable over Reinert. Although not specified by Reinert, having the outriggers as hydraulically deployed would have obvious to a routineer in the art, as the other actuators of Reinert are hydraulic.

14. An inquiry concerning this action should be directed to Examiner Thomas J. Brahan at telephone number (703) 308-2568 on Mondays through Thursdays from 8:30-6:00 EST. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for Technology Center 3600 is (703) 305-7687.

 3/24/02
THOMAS J. BRAHAN
PRIMARY EXAMINER